



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. H. Cavness
State Auditor
Austin, Texas

Dear Mr. Cavness:

Opinion No. 9-5628

Re: What disposition should be made of two notes aggregating \$375.00 dated in 1851 held in the Escheat Estates Fund?

We have given careful consideration to your letter of September 20, 1943, which reads as follows:

"In our present audit of the State Treasury Department, we find that there remains a balance of \$375.00 in the 'Escheated Estates Fund' representing two promissory notes, photostatic copies of which are attached hereto.

"In view of the fact that these notes date back to the year 1851, they appear worthless.

"We ask your opinion as to whether the State Treasurer has the authority to cancel these notes and clear this balance of \$375.00 from the books of the State Treasury Department. If he does not, how can such clearance be made?"

Under the Escheat Law, as it existed in 1851, it was specifically provided that, where any property in Texas was in existence to which no person claimed an interest, the District Attorney or County Attorney could bring suit and have same escheated to the State, and provided that the judgment of the court should place the title to said property in the State. We presume that the

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two notes described in your letter were under said statutes decreed to be the property of the State of Texas.

The note for \$275.00, a copy of which is attached to your letter, shows that it was dated February 12, 1851, and is payable to Thurman and Watson, and has a credit thereon of \$150.00, of date February 13, 1851, and is signed by J. H. Stevens.

The note for \$100.00 is dated April 8, 1851, and is payable to W. H. Diaderick, and has a credit of \$25.00 thereon as of date February 20th, and is signed by L. I. H. Minnis.

These notes are more than eighty-eight years past due, and unquestionably the signers to the notes have long since passed to their reward. However, there is no way for the account to be closed and same should be carried on the books.

Very truly yours

APPROVED OCT 1, 1940

ATTORNEY GENERAL OF TEXAS

W. H. Allen

FIRST ASSISTANT
ATTORNEY GENERAL

By

Geo. W. Barcus

Geo. W. Barcus
Assistant

GWB-MR

